

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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THE GUARDIAN NEWS, INC. and  
SELIM ZHERKA,

07Civ. 7078 (CLB)

Plaintiffs,

-against-

**JUDGMENT**

PHILIP AMICONE, *et. al.*

Defendants.

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This action having been tried by the Hon. Charles L. Bricant on November 13, and 14, 2007, without a jury, and the Court having on March 3, 2008, rendered a memorandum and order making findings of fact and setting forth conclusions of law, it is hereby,

ORDERED, ADJUDGED AND DECREED that:

1) Defendants be and they are hereby permanently enjoined from enforcing the final sentence of Yonkers Code Section 100-35, which provides: "No person shall distribute, hand out or cast about any card, circular, pamphlet or printed matter within any park or upon any public place",

2) Defendants be and they hereby are prospectively permanently enjoined from interfering with Plaintiffs' placement of Guardian newsracks within the City of Yonkers, as long as those of other newspapers are permitted, and the newsracks of the Guardian comply with the provisions of Section 33 of the Yonkers City Code,

3) Defendants be and they hereby are prospectively permanently enjoined from charging the Plaintiffs with any violation of Section 33 of the said Code without first strictly complying with the procedures set forth in Section 33-5 of the City Code prior to the removal of any Guardian newsrack,

4) Defendants be and they are hereby are directed to restore to the *status quo ante* the wire newsrack that was removed from the City Hall staircase during August 2007,

5) All charges resulting from the summonses issued to Defendants and/or any of the individuals who distributed the Guardian in alleged violation of Section 100-35 be and the same are hereby dismissed and Defendants are permanently prospectively enjoined from prosecuting same,

7) Defendants be and they here by are mandatorily enjoined to forthwith return to the The Westchester Guardian, Inc. all property of the Westchester Guardian, Inc., including newsracks and copies of editions of the Guardian for the period July 5, 2007, through September 15, 2007, in their possession, custody and/or control, and it is

ORDERED that Plaintiffs as the prevailing parties are awarded attorneys fees in the amount of \$ 42,480. along with ~~costs~~ <sup>disbursements</sup> in the sum of \$ 6,631.20 for a total of \$ 49,111.20, with interest to run thereon from the date of entry of this judgment. ✓

Dated: White Plains, N.Y.

March 20 2008

SO ORDERED  
~~ENTER~~

Charles L. Brieant  
Charles L. Brieant  
United States District Judge